

MR. & MRS. RICHARD M.,

Appellant

v.

PRINCE GEORGE'S COUNTY BOARD
OF EDUCATION,

Appellee

BEFORE THE

MARYLAND

STATE BOARD

Opinion No. 08-56

OPINION

This is an appeal of the denial of Appellants' request to transfer their daughter from High Point High School to Eleanor Roosevelt High School. The Prince George's County Board of Education (local board) has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. Appellants have submitted a reply to the local board's Motion.

FACTUAL BACKGROUND

On March 13, 2008, Appellants filed a Student Transfer Request asking that their daughter, K.M., be granted a transfer from High Point High School (High Point) to Eleanor Roosevelt High School (Roosevelt) for the 2008-2009 school year. As the basis for their request, Appellants stated that K.M. has always been interested in learning Italian and the course is offered at Roosevelt. They also stated that K.M. played flute in the Hyattsville Middle School band and Wind Ensemble, and that she had been on the Honor Roll for the past two years.

By letter dated May 21, 2008, the Office of Student Transfers denied the transfer request due to lack of space in the Italian Program and because the transfer request failed to meet all of the requisites for approval under local board policy. (Powell Letter, 5/21/08).

Appellants appealed to the Office of Appeals. They reiterated their desire to have K.M. attend Roosevelt so that she could take Italian. They also raised concerns about High Point's demographics, as identified in the 2007-2008 High School Improvement Plan, and the fact that High Point is in "corrective action," stating their belief that these "will hinder [K.M.] in receiving the best education that she deserves." (Appellants' Letter, 5/27/08). The Office of Appeals denied the request based on overcrowding at Roosevelt, which had an anticipated enrollment of 19% over its state-rated capacity for the 2008-2009 school year. (Anderson Letter, 6/6/08).

On appeal to the local board, Appellants reiterated that K.M. wanted to take Italian, a course offered at Roosevelt but not at High Point. They stated that Roosevelt had accepted K.M. into Concert Band 2 if the transfer request were approved. They mentioned again the fact that High Point was in corrective action. (Letter of Appeal to Local Board, 6/11/08).

Robert M. Anderson, Assistant Supervisor for the Office of Appeals, recommended that the local board deny the transfer. He stated that Roosevelt is anticipated to be 19% over its state-rated capacity thereby creating a very crowded school environment. He pointed out that, despite the availability of temporary classrooms for some courses, the hallways, media center, cafeteria, and gyms cannot be altered to accommodate the overage of students. He explained that enrollment at High Point has remained relatively constant in the recent past. Thus, the school system projected a 101% school utilization rate for High Point. (Anderson Memorandum). The local board accepted Mr. Anderson's recommendation and denied Appellants' request to transfer K.M. from High Point to Roosevelt. (Thomas Letter, 6/27/08).

This appeal to the State Board ensued.

STANDARD OF REVIEW

The standard of review in a student transfer decision is that the State Board will not substitute its judgment for that of the local board unless the decision is shown to be arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05.

ANALYSIS

In this appeal, Appellants request that the State Board approve their daughter's transfer to Roosevelt so that she can participate in the Italian course offered there that is not available at High Point.

The Prince George's County Public Schools' (PGCPS) student transfer policy is permissive and not mandatory, giving the school system discretion in balancing the interests of the students and the schools. *See D.D. v. Prince George's County Bd. of Educ.*, MSBE Opinion No. 06-35. Although the PGCPS Administrative Procedure states that the Office of Student Transfers may approve a student transfer based on the inability of a student to obtain a program of instruction at the student's present school where there is evidence that the student's desired program at another school would be to the student's educational advantage, school-based transfers are limited to schools that are not severely overcrowded as determined by the Office of Pupil Accounting and School Boundaries. Administrative Procedure 5110.3(II)(A)(2) & (9).

The local board denied the transfer request because Roosevelt would be operating at a utilization rate of 119%. In contrast, High Point would be operating at a utilization rate of 101%. Appellants argue that the data the school system used was old enrollment data from September 2007. That data was the only data available to the Office of Appeals and the local board at the time of their decisions. Based on that data, the local board had a reasonable basis upon which to deny Appellants' transfer request. Nonetheless, in response to Appellants' concerns about the data, the local board has provided updated data showing that, as of October 5, 2008, Roosevelt is operating at a utilization rate of 127% while High Point is operating at a rate of 98%. (Local

Board's Reply to Appellants' Response). This information provides further support for upholding the denial of the transfer request.

The State Board has long held that there is no right to attend a particular school or a particular class. See *Bernstein v. Board of Educ. of Prince George's County*, 245 Md. 464 (1967); *Goldberg v. Montgomery County Bd. of Educ.*, MSBE Op. No. 05-35 (October 26, 2005); *Chacon v. Montgomery County Bd. of Educ.*, MSBE Op. No. 01-39 (December 5, 2001); *Williams v. Board of Educ. of Montgomery County*, 5 Ops. MSBE 507 (1990).

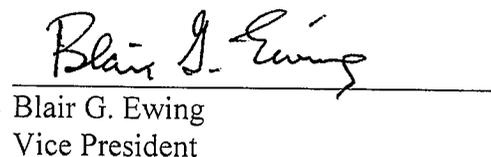
No Child Left Behind Claim

The Appellants request a transfer based on No Child Left Behind requirements. Under No Child Left Behind (NCLB), a local school system shall, in the case of a Title I school identified for school improvement, corrective action, or restructuring, provide all students enrolled in the school the option to transfer to another public school within the school system. 34 CFR §200.44. Pursuant to this provision, Appellants requested that the school system transfer K.M. to Roosevelt because High Point is in corrective action status. This provision is inapplicable, however, because High Point is not a Title I school.

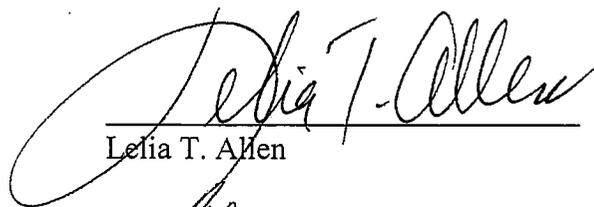
CONCLUSION

Because the local board's decision is consistent with Administrative Procedure 5110.3, we find that the local board's decision is not arbitrary, unreasonable or illegal. Accordingly, we affirm the local board's denial of Appellants' transfer request.


James H. DeGraffenreidt, Jr.
President


Blair G. Ewing
Vice President

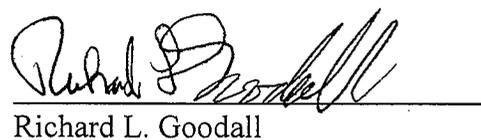

Dunbar Brooks


Lelia T. Allen


Charlene M. Dukes

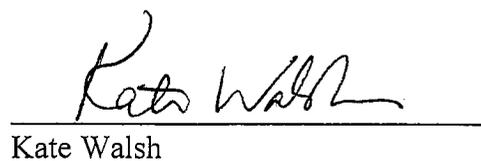

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December 17, 2008